

Interim Decision #2061

MATTER OF YIU

In Visa Petition Proceedings

A-19182846

Decided by Board November 19, 1970

Beneficiary, who was born in Hong Kong in 1940 (the daughter of a female servant who resided in petitioner's household), and whose care and custody were vested in petitioner in Hong Kong upon the death of beneficiary's mother in 1949, was not validly adopted by petitioner since the governing Chinese law and custom permits adoption only for purposes of family succession and is limited to males; further, adoption of strangers is allowed only when a person has exhausted all his kindred, and even then the adopted child must be of the same surname.

ON BEHALF OF PETITIONER: Arlin W. Hargreaves, Esquire
Fallon, Hargreaves & Bixby
30 Hotaling Place
San Francisco, California 94111

Petitioner appeals from a decision of the District Director denying this petition filed to accord the beneficiary status as the adopted daughter of a United States citizen. For reasons to be mentioned herein, we order this appeal dismissed.

Petitioner, a native of Hong Kong, claims that in 1949 she adopted the beneficiary, who was born in Hong Kong on February 15, 1940. The beneficiary was the daughter of a female servant who resided in petitioner's household and when the servant died in 1949, petitioner commenced carrying for the child. The record discloses that, following her mother's decease in 1949, the beneficiary, under section 31(2) of the Hong Kong Protection of Women and Girls Ordinance, became a ward of the Secretary for Chinese Affairs. Care and custody of the beneficiary were vested in the petitioner.

In denying the visa petition, the District Director concluded that this was not a valid adoption under Article 1079 of the Chinese Civil Code inasmuch as the adoption was not in writing. He further stated that "Chinese customary law and Article 1079 of the Chinese Civil Code require that an adopted person assume